

AMENDED IN ASSEMBLY JUNE 6, 2012

AMENDED IN ASSEMBLY APRIL 30, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2563

Introduced by Assembly Member Smyth

February 24, 2012

An act to add Part 8 (commencing with Section 38600) to Division 25.5 of the Health and Safety Code, relating to climate change, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2563, as amended, Smyth. California Global Warming Solutions Act of 2006: offsets.

The California Global Warming Solutions Act of 2006 requires the State Air Resources Board to adopt regulations to require the reporting and verification of emissions of greenhouse gases and to monitor and enforce compliance with the reporting and verification program, and requires the state board to adopt a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions level in 1990 to be achieved by 2020. The act requires the state board to adopt rules and regulations in an open public process to achieve the maximum technologically feasible and cost-effective greenhouse gas emission reductions. The act authorizes the state board to include the use of market-based compliance mechanisms.

This bill, if the state board uses its authority to include the use of market-based compliance mechanisms, would require the state board, on or before January 1, 2013, to adopt a specified process for the review

and consideration of new offset protocols and, commencing in ~~2012~~ 2013 and continuing annually thereafter, use that process to review and consider new offset protocols.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) The California Global Warming Solutions Act of 2006
4 (Division 25.5 (commencing with Section 38500) of the Health
5 and Safety Code) requires the state to reduce greenhouse gas
6 emissions to 1990 levels by 2020.

7 (b) On October 20, 2011, the State Air Resources Board adopted
8 the final cap-and-trade regulation pursuant to the act, to become
9 effective January 1, 2012, as required by that act, and also adopted
10 Resolution 11-32 to require that its executive officer develop
11 implementation documents laying out the process for the review
12 and consideration of new offset protocols.

13 (c) The cap-and-trade regulation is part of the state's global
14 warming scoping plan and is intended to provide covered entities
15 under the act the flexibility to seek out and implement the
16 lowest-cost options to reduce greenhouse gas emissions and will
17 provide an estimated 20 percent of the ~~emission~~ emissions
18 reductions required to achieve 1990 emission levels by 2020, as
19 required by the act.

20 (d) The cap-and-trade regulation allows offset credits to be used
21 as a means by which parties subject to the regulation can lower
22 their cost to comply with the regulation while still ensuring a
23 reduction of greenhouse gas emissions and caps the use of offset
24 credits at no more than 8 percent of a covered entity's compliance
25 obligation.

26 (e) The State Air Resources Board has adopted four compliance
27 offset protocols for use in the United States that can be used to
28 certify high-quality offset credits that are additional, real,
29 measurable, and verifiable as required by the California Global
30 Warming Solutions Act of 2006 (~~Division 25.5 (commencing with~~

1 ~~Section 38500) of the Health and Safety Code):~~ Livestock Manure
2 projects, Urban Forests projects, Ozone Depleting Substances
3 Destruction projects, and Forests projects.

4 (f) The four adopted protocols, as currently written, are not
5 expected to generate the volume of offset credits necessary to
6 supply the full amount of ~~useable~~ *allowable* credits under the
7 cap-and-trade regulation between 2013 and 2020. ~~More~~ *If approved*
8 *by the State Air Resources Board, additional* protocols ~~will need~~
9 ~~to be approved to~~ *could increase the* supply ~~real, measurable,~~
10 ~~additional, and verifiable~~ *of additional, real, permanent,*
11 *quantifiable, verifiable, and enforceable* offsets in additional
12 categories of uncapped emissions, including, for example,
13 improved or maintained agriculture yields with less greenhouse
14 gas emissions, recycling, organic composting, landfill gas
15 reductions, *and* coal mine gas ~~reductions, and others for both~~
16 ~~Phases I and II reductions.~~

17 (g) To facilitate the future adoption of offset protocols that
18 achieve additional, real, ~~measurable, and verifiable~~ *quantifiable,*
19 *verifiable, and enforceable* carbon dioxide reductions, as required
20 by the California Global Warming Solutions Act of 2006 (~~Division~~
21 ~~25.5 (commencing with Section 38500) of the Health and Safety~~
22 ~~Code), and to provide offset market~~ *greater clarity and* certainty
23 for project developers and regulated entities, *the State Air*
24 *Resources Board should adopt* an offset protocol review and
25 approval process ~~should be adopted by the State Air Resources~~
26 ~~Board.~~

27 (h) While a state comprehensive offset protocol review process
28 would provide more certainty for carbon dioxide offset suppliers
29 and purchasers to invest in environmentally worthwhile projects
30 that meet certain criteria under the California Global Warming
31 Solutions Act of 2006 (~~Division 25.5 (commencing with Section~~
32 ~~38500) of the Health and Safety Code), it is the intent of the~~
33 Legislature that only high-quality offset credits that represent
34 rigorously evaluated offset protocols and that meet the statutory
35 requirements of the California Global Warming Solutions Act of
36 2006 (~~Division 25.5 (commencing with Section 38500) of the~~
37 ~~Health and Safety Code) act~~ be allowed for compliance with the
38 cap-and-trade regulation.

39 SEC. 2. Part 8 (commencing with Section 38600) is added to
40 Division 25.5 of the Health and Safety Code, to read:

1 PART 8. *CERTIFICATION OF COMPLIANCE OFFSETS*

2
3 38600. (a) On or before January 1, 2013, if the state board has
4 exercised its authority pursuant to subdivision (a) of Section 38570,
5 the state ~~board shall~~, *board*, in accordance with Section 38571,
6 *shall* adopt a process for the review and consideration of new offset
7 protocols. The process shall include, but not be limited to, all of
8 the following:

9 (1) A schedule, to be posted ~~online, on the state board's Internet~~
10 *Web site*, that depicts the timeline for review and consideration of
11 ~~adoption of new offset protocols submitted to by the state board.~~
12 This schedule shall be updated *regularly and at least* annually.

13 (2) An online tracking system that will allow the public to track
14 the progress of new offset protocols ~~submitted to under review~~
15 *and consideration* by the state board ~~for review and consideration.~~

16 (3) A point of contact at the state board for entities ~~that have~~
17 *submitted interested in the process of review and consideration*
18 *of new offset protocols to by the state board for review and*
19 *consideration.*

20 (4) An explanation of how the review and consideration process
21 will accommodate public ~~review~~ *input* and comments on new offset
22 protocols under consideration.

23 (5) An explanation of the criteria used for consideration of new
24 offset protocols, including, but not limited to, a description of the
25 standards for protocol approval, rejection, and delay. This
26 description also shall include, to the extent feasible, a description
27 of the social, environmental, and financial impacts analysis used
28 in making offset protocol decisions as well as ~~a forecast~~ *an estimate*
29 of potential supply and expected development costs.

30 (b) Commencing in ~~2012~~, *2013*, and continuing annually
31 thereafter, if the state board has exercised its authority pursuant
32 to subdivision (a) of Section 38570, the state board shall use the
33 process adopted pursuant to subdivision (a) to review and consider
34 new offset protocols.

35 SEC. 3. This act is an urgency statute necessary for the
36 immediate preservation of the public peace, health, or safety within
37 the meaning of Article IV of the Constitution and shall go into
38 immediate effect. The facts constituting the necessity are:

39 In order to obtain additional flexibility, certainty, and
40 accountability with regard to the implementation of compliance

- 1 offset protocols by the State Air Resources Board under the
- 2 California Global Warming Solutions Act of 2006, it is necessary
- 3 for this act to take effect immediately.

O